

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA

FILED

OCT 23 2001

SAMUEL L. KAY, CLERK
U. S. District & Bankruptcy Courts
Southern District of West Virginia

J. FRANK DEEM, ELIAS DON YOAK,
and KENNETH YUFER

Plaintiffs,

v.

CIVIL ACTION NO. 2:01-0972

JOSEPH MANCHIN, III, Secretary of State,
BOB WISE, Governor of West Virginia,
EARL RAY TOMLIN, President of the West
Virginia State Senate, and ROBERT S. KISS,
Speaker of the House of Delegates, in
their official capacities,

Defendants.

COMPLAINT

1) This is an action for declaratory relief under 28 USC 2201, 2202 and for interlocutory relief or permanent injunction restraining the enforcement, operation or execution of Enrolled House Bill 511 entitled

"AN ACT to amend and reenact sections one, two and two-b, article two, chapter one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to apportionment of membership of the Senate; apportionment of membership of the House of Delegates; requiring all actions necessary and related to such apportionment; and defining terms."

Which said Act was passed by the Legislature of West Virginia on the 19th day of September, 2001, and which Act was effective from passage, by restraining the actions of state officers in the enforcement or execution of such statute insofar as the same reapportions the West Virginia State Senate. (See Exhibit 1)

2) Plaintiffs therefore request the convening of a three-judge District Court to grant such relief as provided under 28 USC 2281, et seq. Plaintiffs bring this action under 42 USC 1983 and 1988.

3) This Court has jurisdiction under 28 USC 1343.

4) Plaintiff, **J. FRANK DEEM**, is a taxpayer and citizen of Wood County, West Virginia, and is a duly elected member of the West Virginia State Senate.

5) Plaintiffs, **ELIAS DON YOAK** and **KENNETH YUFER**, are taxpayers and citizens of Roane County, West Virginia.

6) Defendant, **BOB WISE**, is the duly elected, qualified, and acting Governor of the State of West Virginia. As such, he is charged with the duty of taking care to see that the laws are faithfully executed.

7) Defendant, **JOSEPH MANCHIN, III**, is the duly elected, qualified, and acting Secretary of State of the State of West Virginia. This defendant, is charged with the duty of examining election returns, taking actions thereon, declaring election results, distributing election laws, certifying to the Circuit Clerks of each county lists of candidates nominated, certifying to the legislature the members thereof elected for it, certifying to the counties the number of delegates and senators that may be elected under the legislative apportionment acts and constitution of the state, notifying each candidate, and discharging other official functions in connection with each statewide election.

8) Defendant, **EARL RAY TOMLIN**, is the duly elected, qualified, and acting President of the West Virginia State Senate.

9) Defendant, **ROBERT S. KISS**, is the duly elected, qualified and acting, speaker of the West Virginia House of Delegates.

10) This action is brought against the Governor, Secretary of State of the State of West Virginia, President of the State Senate, and Speaker of the House of Delegates, in their respective official capacities, including any successors to such official positions.

11) Plaintiffs, pursuant to Rule 23 of the Federal Rules of Civil Procedure, bring this action on their own behalf and on behalf of all other persons, citizens, taxpayers and qualified voters in the State of West Virginia who are similarly situated. There is a common question of law involved, that being the constitutionality of House Bill 511, in so far as it relating to legislative apportionment of the West Virginia State Senate. Common relief is sought against each of the state officials in each of their official capacities.

12) The common relief sought against all of the parties in their official capacities relates, in their respective jurisdictions, to carrying out the election laws with respect to the election of senators to the state legislature, the calling of elections therefor, the appointment of election officials, the certification of the results of the elections, the preparation of ballots therefor, and the taking of all steps necessary for the

holding of elections, both primary and general; to all matters relating to the election of such senators to the state legislature; and, to the paying of salaries and expenses of such senators as hereafter may be elected in the state.

13) Plaintiffs, who are denied the right to due process and the equal protection of the laws as guaranteed by the Fourteenth Amendment to the United States Constitution, bring this action on their own behalf and on behalf of all citizens, taxpayers, and qualified voters of the respective counties of the State of West Virginia, for a declaration of their rights and a declaration of the invalidity House Bill 511 insofar as the same reapportions the State Senate.

14) Plaintiffs seek such declaratory and injunctive relief as may be proper to assure them, and all others similarly situated, due process and the equal protection of the laws insofar as representation in the West Virginia State Senate, which are violative of the Constitution of the United States, all of which is more particularly set forth hereinafter.

15) The Constitution of the State of West Virginia Article 6 § 4 provides:

DIVISION OF STATE INTO SENATORIAL DISTRICTS

"For the election of senators, the State shall be divided into twelve senatorial districts, which number shall not be diminished, but may be increased as hereinafter provided. Every district shall elect two senators, but, where the district is composed of more than one county, both shall not be chosen from the same county. The districts shall be compact, formed of contiguous territory, bounded by county lines, and, as nearly as practicable, equal population, to be

ascertained by the census of the United States. After every such census, the legislature shall alter the senatorial districts, so far as may be necessary to make them conform to The foregoing provision."

16) The 2000 census established the population of the State of West Virginia to be 1,808,344.

17) That the State has established seventeen (17) senatorial districts and under ideal population equality, each district would contain 106,374 persons.

18) That it is well established by a litney of United States Supreme Court decisions, that, while exact equality of districts is not required, a deviation between districts in excess of ten percent (10%) creates a prima facie case of invidious discrimination.

19) That the decisions in these cases set forth the method for measuring "maximum population deviation" which is as follows: The State's population is divided by the number of representatives or senators to get the norm for absolute population equality. If a district has more population than the ideal district, you subtract the ideal district population from the actual district population. This difference is then divided by the ideal district population to get the percentage of under representation.

20) When the district has fewer persons than the ideal district, you subtract its population from the population of the ideal district. This number is then divided by the ideal district population to determine the percentage of over representation.

21) The maximum population deviation is then determined by adding together the percentage of over representation with the percentage of under representation.

22) Under House Bill 511, the deviation in Senate districts is as follows:

<u>DISTRICT</u>	<u>NUMBER OF MEMBERS</u>	<u>POPULATION</u>	<u>IDEAL POPULATION</u>	<u>DEVIATION</u>
1	2	101,536	106,374	-4.55
2	2	106,035	106,374	-0.32
3	2	110,713	106,374	4.08
4	2	111,652	106,374	4.96
5	2	104,316	106,374	-1.93
6	2	101,069	106,374	-4.99
7	2	101,388	106,374	-4.69
9	2	101,722	106,374	-4.37
10	2	105,747	106,374	-0.59
11	2	111,413	106,374	4.74
12	2	107,433	106,374	1.00
13	2	110,979	106,374	4.33
14	2	111,469	106,374	4.79
15	2	111,344	106,374	4.67
16	2	111,455	106,374	4.78

<u>DISTRICT</u>	<u>NUMBER OF MEMBERS</u>	<u>IDEAL POPULATION</u>	<u>POPULATION</u>	<u>DEVIATION</u>
8	2	100,036	106,374	-5.96
17	2	100,036	106,374	-5.96

23) Because the 8th and 17th districts consist of Kanawha County, they have an over representation of 11.92%.

24) In addition, when compared to the other districts, the maximum deviation between the two (2) Kanawha County districts and the 4th district is 10.92%, the 11th district is 10.70%, the 13th district is 10.29%, the 14th district is 10.75%, the 15th district is 10.63% and the 16th district is 10.74%.

25) It is clear from the redistricting map, attached hereto as exhibit "2," that minimal attention was paid to the provision of West Virginia Constitution Article 6, Section 4, and less to the equal protection clause of the XIV Amendment to the United States Constitution.

26) The primary goal of the reapportionment of the State Senate in House Bill 511 was for the protection of the incumbents, with population, county lines, and compactness being secondary considerations.

27) The foregoing illustrations of the malapportionment of the State Senate of West Virginia evidence the gross over-representation of Kanawha County and the gross under-representation of the counties contained in districts 4, 11, 13, 14, 15 and 16. The failure of the legislature of the state to equitably apportion the senatorial districts results in each plaintiff's vote, and the votes of all other parties similarly situated, suffering a debasement and fractionalization by virtue of an arbitrary, and unconstitutional apportionment of the State Senate, to the denial of each plaintiff, and all of those similarly situated, of due process of law and the equal protection of the laws.

28) It is statistically impossible to design a constitutionally acceptable redistricting plan for the thirty-four (34) member West Virginia State Senate which allows Kanawha County to have four (4) State Senators and still comply with the mandates of the West Virginia Constitution.

29) Attached hereto is a proposed State Senate reapportionment plan which splits fewer counties, allows all current State Senators to continue to represent their current district, except one Kanawha County Senator, and has a maximum population deviation between the largest and smallest district of 2.79 percent. (See exhibit "3.")

30) In addition to having significantly less overall deviation this reapportionment proposal splits fewer counties, nine (9) instead of the eleven (11), under House Bill 511. House Bill 511 splits 12 voting districts only, seven (7) of which were split to respect corporate municipal boundaries. While the plan proposed herewith likewise splits twelve (12) voting districts all twelve (12) were split to respect corporate municipal boundaries.

31) SENATE PLAN COMPARISONS

		HOUSE BILL 511	PROPOSED ALTERNATIVE SENATE PLAN
DISTRICT POPULATION DEVIATION			
District	1	- 4.55%	- 0.78%
District	2	- 0.32%	+ 0.36%
District	3	+ 4.08%	- 0.17%
District	4	+ 4.96%	- 0.78%
District	5	- 1.93%	- 0.49%
District	6	- 4.99%	+ 0.48%
District	7	- 4.69%	+ 1.32%
District	8	- 5.96%	+ 1.25%
District	9	- 4.37%	+ 1.35%
District	10	- 0.59%	- 1.36%
District	11	+ 4.74%	+ 0.54%
District	12	+ 1.00%	+ 1.17%
District	13	+ 4.33%	- 0.67%
District	14	+ 4.79%	+ 0.67%
District	15	+ 4.67%	- 0.66%
District	16	+ 4.78%	- 1.44%
District	17	- 5.96%	+ 0.26%
OVERALL PLAN DEVIATION		+10.92%	+ 2.79%

32) The malapportionment of the senate as contained in House Bill 511, is a purposeful and systematic plan to protect the four (4) incumbent State Senators in Kanawha County and to discriminate against other geographic areas and classes of persons and to deny them the equal protection of the laws guaranteed to all people of the state by the United States Constitution.

33) The rights of plaintiffs, and the others similarly situated can only be protected by a decree of this Court declaring the reapportionment of the senate contained in House Bill 511, to be unconstitutional and by enjoining defendants from performing any acts or duties in compliance with such statute.

Plaintiffs have no adequate remedy other than the judicial relief sought herein for the following reason:

The West Virginia Legislature is not scheduled to convene in regular session until the 9th day of January, 2002. The time for filing for legislative offices is January 14, 2002, to January 26, 2002.

In order to avoid chaos in the electoral process, this issue needs to be resolved before that time.

WHEREFORE, Plaintiffs pray:

1.) That a special three-judge Court be called to hear and determine this cause pursuant to 28 USC § 2281, et seq.

2.) That the Court declare:


a) That House Bill 511 will deprive the Plaintiffs of due process of the laws in violation of the Fourteenth Amendment to the United States Constitution.

- b) That any apportionment law enacted in the State of West Virginia must be based primarily on population and if any rational criteria other than population is used, it shall limit the population between senate districts to an amount which does not exceed an overall deviation of ten percent (10%) between districts.
 - c) Restrain defendant, **GOVERNOR BOB WISE**, from applying and implementing the provision of House Bill 511 insofar as the same purports to reapportion the State Senate.
 - d) Restrain defendant, **JOSEPH MANCHIN, III**, from performing official functions in connection with statewide elections, and from taking any action under the provision of House Bill 511 to implement the election of State Senators to the legislature of the State of West Virginia which would deprive Plaintiffs of due process and the equal protection of the laws.
 - e) That the Court find that the reapportionment plan proposed by Plaintiffs to be fair and equitable and in compliance with the mandates of the West Virginia Constitution and the Constitution of the United States and Order the same to be adopted.
- 3.) That in the alternative the Court:
- a) Order the defendant, **GOVERNOR BOB WISE**, of the State of West Virginia to convene a special session of the Legislature to comply with the mandate of this Court regarding maximum deviation of senatorial districts.
 - b) That the Court Order the defendants, **EARL RAY TOMLIN** and **ROBERT S. KISS**, to introduce bills to apportion the State Senate that comply with the Constitution of the United States and the Constitution of West Virginia.
 - c) Retain jurisdiction of this cause during such special legislature session to evaluate such new apportionment plan as has been devised to meet the requirement of the Fourteenth Amendment to the United States Constitution and to conduct further hearings in determination of the validity of any new

apportionment law as may be enacted or determine a proper apportionment in the absence of any action by the legislature so to do.

- d) And for such other and further relief as the Court shall deem just and proper.

J. FRANK DEEM, et al.
Plaintiffs,
By Counsel.



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JFDEEM-COMPLAINT-2001

1 **ENROLLED**

2 **H. B. 511**

3
4 (By Mr. Speaker, Mr. Kiss, and Delegates Staton, Varner, Pino, Givens, Doyle and Stalnaker)

5
6 [Passed September 19, 2001; in effect from passage.]

7
8
9 AN ACT to amend and reenact sections one, two and two-b, article two, chapter one of the code
10 of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to
11 apportionment of membership of the Senate; apportionment of membership of the House
12 of Delegates; requiring all actions necessary and related to such apportionment; and
13 defining terms.

14 *Be it enacted by the Legislature of West Virginia:*

15 That sections one, two and two-b, article two, chapter one of the code of West Virginia,
16 one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as
17 follows:

18 **ARTICLE 2. APPORTIONMENT OF REPRESENTATION.**

19 **§1-2-1.** Senatorial districts.

20 (a) This section shall be known and may be cited as the "Senate Redistricting Act of 2001".

21 (b) As used in this section:

22 (1) "County" means the territory comprising a county of this state as such county existed on the

1 first day of January, two thousand, notwithstanding any boundary changes thereof made
2 subsequent thereto;

3 (2) "Block" and "voting district" mean those geographic areas as defined by the bureau of the
4 census of the United States department of commerce for the taking of the two thousand census of
5 population and described on census maps prepared by the bureau of the census. Such maps are,
6 at the time of this enactment, maintained by the bureau of the census and filed in the office of
7 legislative services;

8 (3) "Incumbent senator" means a senator elected at the general election held in the year two
9 thousand or at any general election thereafter, with an unexpired term of at least two years in
10 duration.

11 (c) The Legislature recognizes that in dividing the state into senatorial districts, the Legislature is
12 bound not only by the United States constitution but also by the West Virginia constitution; that
13 in any instance where the West Virginia constitution conflicts with the United States
14 constitution, the United States constitution must govern and control, as recognized in section
15 one, article one of the West Virginia constitution; that the United States constitution, as
16 interpreted by the United States supreme court and other federal courts, requires state legislatures
17 to be apportioned so as to achieve equality of population as near as is practicable, population
18 disparities being permissible where justified by rational state policies; and that the West Virginia
19 constitution requires two senators to be elected from each senatorial district for terms of four
20 years each, one such senator being elected every two years, with one half of the senators being
21 elected biennially, and requires senatorial districts to be compact, formed of contiguous territory
22 and bounded by county lines. The Legislature finds and declares that it is not possible to divide

1 the state into senatorial districts so as to achieve equality of population as near as is practicable
2 as required by the United States supreme court and other federal courts and at the same time
3 adhere to all of these provisions of the West Virginia constitution; but that, in an effort to adhere
4 as closely as possible to all of these provisions of the West Virginia constitution, the Legislature,
5 in dividing the state into senatorial districts, as described and constituted in subsection (d) of this
6 section, has:

7 (1) Adhered to the equality of population concept, while at the same time recognizing that from
8 the formation of this state in the year one thousand eight hundred sixty-three, each constitution of
9 West Virginia and the statutes enacted by the Legislature have recognized political subdivision
10 lines and many functions, policies and programs of government have been implemented along
11 political subdivision lines;

12 (2) Made the senatorial districts as compact as possible, consistent with the equality of
13 population concept;

14 (3) Formed the senatorial districts of "contiguous territory" as that term has been construed and
15 applied by the West Virginia supreme court of appeals;

16 (4) Deviated from the long-established state policy, recognized in subdivision (1) above, by
17 crossing county lines only when necessary to ensure that all senatorial districts were formed of
18 contiguous territory or when adherence to county lines produced unacceptable population
19 inequalities and only to the extent necessary in order to maintain contiguity of territory and to
20 achieve acceptable equality of population; and

21 (5) Also taken into account in crossing county lines, to the extent feasible, the community of
22 interests of the people involved.

1 unacceptable population inequalities and only to the extent
2 necessary in order to maintain contiguity of territory and to
3 achieve acceptable equality of population; and

4 (5) Also taken into account in crossing county lines, to the
5 extent feasible, the community of interests of the people involved.

6 (d) The Senate shall be composed of thirty-four senators, one
7 senator to be elected at the general election to be held in the
8 year two-thousand two, and biennially thereafter for a four-year
9 term from each of the senatorial districts hereinafter in this
10 subsection described and constituted as follows:

11 (1) The counties of Brooke, Hancock and voting districts 1, 4,
12 5, 10, 11, 12, 13, 14, 16, 20, 23, 24, 28, 29, 31, 36, 49, 77, 103,
13 104, 107, 108, 113, 115, 116, 119, 120, 122, 124, 125, 127, 128,
14 129, 130, 131, 135, 137, 141, 143, 146, 148, 158, 161 of Ohio
15 shall constitute the first senatorial district;

16 (2) The counties of Calhoun, Doddridge, Marshall, Ritchie,
17 Tyler, Wetzel and voting districts 59, 66, 67, 68, 69, 70, 72, 74,
18 78 of Marion and voting districts 40, 41, 42, 44, 47, 51, 52, 53,
19 54, 55, 58, 67, block: 0113001033, 68, block: 0113002014 of
20 Monongalia and voting districts 60, 64, 69, 100, 102 of Ohio shall
21 constitute the second senatorial district;

22 (3) The counties of Pleasants, Wirt, Wood and voting districts
23 4, 5, 7, 10, 15, 16, 22, blocks: 9629003000, 9629003002,
24 9629003003, 9629003005, 9629003006, 9629003014, 9629003015,
25 9629003016, 9629003017, 9629003018, 9629003019, 9629003020,
26 9629003022, 9629003025, 9629003029, 9629003030, 9629003031,
27 9629003032, 9629003033, 9629003034, 9629003035, 9629003036,
28 9629003037, 9629003038, 9629003039, 9629003040, 9629003999,

1 9629004000, 9629004001, 9629004002, 9629004003, 9629004004,
 2 9629004005, 9629004006, 9629004007, 9629004008, 9629004009,
 3 9629004010, 9629004014, 9629004015, 9629004016, 9631001012, 25, 28,
 4 29, 30, 32 of Roane shall constitute the third senatorial district;

5 (4) The counties of Jackson, Mason, Putnam and voting
 6 districts 1, 11, 12, 18, 19, 20, 21, 22, blocks: 9629001071,
 7 9629003007, 9629003008, 9629003009, 9629003010, 9629003011,
 8 9629003012, 9629003023, 9629003024, 9629003046, 9629003048,
 9 9629003057, 9629003058, 9629003059, 9630004018, 9630004019,
 10 9630004020, 9630004021, 9630004040, 9630004042, 23 of Roane shall
 11 constitute the fourth senatorial district;

12 (5) The county of Cabell and voting districts 11, 12, blocks:
 13 0203001000, 0203001011, 0203002001, 0203002041, 0203006000,
 14 0203006002, 0203006003, 0203006004, 0203006005, 0203006006,
 15 0203006007, 0203006008, 0203006009, 0203006010, 0203006011,
 16 0203006012, 0203006013, 0203006021, 0203006024, 0203006033,
 17 0203006034, 0203006040, 0203006041, 0203006042, 0203006043,
 18 0203006044, 0203006045, 0203006046, 0203006048, 0203006049,
 19 0203006050, 0203006051, 0203006052, 0203006053, 0203006054,
 20 0203006055, 0203006056, 0203006057, 0203006063, 0203006064,
 21 0203006998, 0203006999, 16, blocks: 0204001009, 0204001013, 56, 59,
 22 60, 61, 62, blocks: 0052002000, 0052002001, 0052002002, 0052002010,
 23 0052002011, 0052002012, 0052002032, 0201002002, 0201002003,
 24 0201002011 and 63 of Wayne shall constitute the fifth senatorial
 25 district;

26 (6) The counties of McDowell and voting districts 2, 3, 4, 5,
 27 42, 46, 49, 51, 52, 53, 54, 55, 57, blocks: 9509001025, 9509001026,
 28 9511002003, 9511002004, 9511002005, 9511002024, 9511002025, 58, 60,

1 61, 62, 66, 67, 68, 69, 71, 72, 79, 96 of Mercer, Mingo and voting
 2 districts 1, 3, 5, 6, 12, blocks: 0203001001, 0203006001,
 3 0203006997, 13, 14, 16, blocks: 0203002026, 0203002027, 0203002028,
 4 0203002029, 0203002030, 0203002031, 0203002032, 0203002040,
 5 0203002996, 0203003006, 0204001010, 0204001011, 0204001012,
 6 0204001014, 0204001015, 0204001016, 0204001017, 0204001034,
 7 0204001054, 0204001055, 0204001056, 0204001057, 0204001058,
 8 0204001059, 0204001060, 0204001061, 0204001062, 0204001996, 17, 18,
 9 20, 21, 31, 34, 36, 37, 38, 62, blocks: 0201002000, 0201002001,
 10 0201002004, 0201002005, 0201002006, 0201002007, 0201002008,
 11 0201002009, 0201002010, 0201002012, 0201002013, 0201002014,
 12 0201002015, 0201002016, 0201002018, 0204003008, 0204003009,
 13 0204003010, 0204003011, 0204003012, 0204003013, 0204003014,
 14 0204003015, 0204003016, 0204003017, 0204003021 of Wayne and voting
 15 districts 5, 10, 11, 23, 24 and 25 of Wyoming shall constitute the
 16 sixth senatorial district;

17 (7) The counties of Boone, Lincoln, Logan and voting districts
 18 19, 22, 30, 41, 42, 45, 48, 49, 50, 51, 52, 53, 54 and 57 of Wayne
 19 shall constitute the seventh senatorial district;

20 (8) The county of Kanawha shall constitute the eighth
 21 senatorial district;

22 (9) The county of Raleigh and voting districts 1, 2, 4, 6, 7,
 23 8, 9, 12, 13, 14, 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30, 31,
 24 32, 33, 34, 36, 37, 38, 39, 40, 42, 43, 44, 45, 47, 48 and 99 of
 25 Wyoming shall constitute the ninth senatorial district;

26 (10) The counties of Monroe, Summers, Greenbrier, voting
 27 districts 68 and 72 of Fayette, voting districts 1, 14, 15, 20, 27,
 28 28, 30, 31, 32, 33, 34, 36, 37, 38, 44, 47, 48, 56, 57, blocks:

1 9511002006, 9511002007, 9511002008, 9511002009, 9511002010,
 2 9511002011, 9511002012, 9511002013, 9511002014, 9511002015,
 3 9511002016, 9511002017, 9511002018, 9511002019, 9511002020,
 4 9511002021, 9511002022, 9511002023, 9511002026, 9511002027,
 5 9511002028, 9511003003, 9511003004, 9511003005, 9511003007,
 6 9511003008, 9511003009, 9511003010, 9511003011, 9511003012,
 7 9511003013, 9511003014, 9511003015, 9511003016, 9511003017,
 8 9511003018, 9511003019, 9511003020, 9511003021, 59, 64, 65, 73, 74,
 9 77, 78, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 95 and 98 of Mercer
 10 shall constitute the tenth senatorial district;

11 (11) The counties of Clay, Nicholas, Webster, voting districts
 12 1, 4, 5, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, 23, 24, 26, 28,
 13 29, 31, 32, 37, 38, 41, 42, 45, 46, 47, 51, 52, 53, 55, 56, 58, 59,
 14 60, 65, 67, 74 of Fayette and voting districts 4, 6, 7, 8, 9, 12,
 15 13, 14, 15, 16, 18, 19, 20, 25, 27, 35, 38, 42, 44 and 47 of Upshur
 16 shall constitute the eleventh senatorial district;

17 (12) The counties of Braxton, Gilmer, Harrison and Lewis;
 18 shall constitute the twelfth senatorial district;

19 (13) The voting districts 1, 2, 5, 6, 7, 13, 16, 18, 20, 27,
 20 28, 29, 30, 31, 32, 33, 34, 35, 36, 40, 41, 42, 43, 44, 45, 47, 48,
 21 50, 51, 52, 53, 55, 56, 57, 58, 61, 62, 82, 83, 86, 87, 88, 89, 90,
 22 92, 96, 98, 100, 101, 102, 104, 112, 113, 114, 115, 116, 117, 118,
 23 120, 121, 122, 123, 124 and 125 of Marion and voting district 1,
 24 blocks: 0110001008, 0110001019, 0110001020, 0110001021, 0110001022,
 25 0110001023, 0110001024, 0110001025, 0110001027, 0110001029,
 26 0110001030, 0110001031, 0110001032, 0110001033, 0110001034,
 27 0110001999, 0110002005, 0110002007, 0110002008, 0110002009,
 28 0110002041, 0110002048, 0110002049, 0110002050, 0110002051,

1 0110002052, 0110002053, 0110002054, 0110002999, 0110003003,
 2 0110003004, 0110003009, 0110003011, 0110003012, 0110003018,
 3 0110003019, 0110003999, voting districts 2, 3, 4, 5, 6, 7, 8, 9,
 4 10, 12, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28,
 5 29, 30, 31, 32, 35, 36A, 36B, 39, 46, 48, 49, 56, 64, 67, blocks:
 6 0113001008, 0113001009, 0113001010, 0113001011, 0113001012,
 7 0113001013, 0113001014, 0113001015, 0113001016, 0113001017,
 8 0113001018, 0113001019, 0113001020, 0113001021, 0113001022,
 9 0113001023, 0113001024, 0113001025, 0113001026, 0113001027,
 10 0113001028, 0113001029, 0113001030, 0113001032, 0113001034,
 11 0113001035, 0113001036, 0113001999, 0113003013, 0113003014,
 12 0113003015, 0113003016, 0113003017, 0113003018, 0113003019,
 13 0113003020, 0113003021, 0113003022, 0113003024, 0113003025,
 14 0113003026, 0113003027, 0113003028, 0113003029, 68, blocks:
 15 0113001000, 0113001001, 0113001002, 0113001003, 0113001004,
 16 0113001005, 0113001031, 0113002002, 0113002003, 0113002004,
 17 0113002005, 0113002006, 0113002007, 0113002008, 0113002009,
 18 0113002010, 0113002011, 0113002012, 0113002013, 0113002015,
 19 0113002016, 0113002017, 0113002018, 0113002019, 0113002020,
 20 0113002021, 0113002022, 0113002023, 0113002024, 0113002025, 69, 70,
 21 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, blocks:
 22 0109022036, 0109022048, 0110002040, 0110002044, 0110003000,
 23 0110003005, 86, 87, 88, 90, 91 and 92 of Monongalia shall
 24 constitute the thirteenth senatorial district:
 25 (14) The counties of Mineral, Preston, Taylor, Tucker, Barbour
 26 and voting districts 8, 9, 10, 14 and 15 of Grant and voting
 27 district 1, blocks: 0110002042, 0110002045, 0110002047, 0110003007,
 28 0110003008, 0110003010, 0110003013, 0110003017, 0110003020,

1 0110003998, 33, 34, 37, 38, 59, 60, 61, 62, 63, 85, blocks:
 2 0109022035, 0109022037, 0109022047, 0109022062, 0109022064,
 3 0109022065, 0110002043, 0110002046, 0110003001, 0110003002,
 4 0110003006, 0110003014, 0110003015, 0110003016, 0110003021,
 5 0110003022, 0110003023, 0110003024, 0110003025, 0110003026,
 6 0110003027, 0110003028, 0110003029, 0110003996, 0110003997,
 7 0118022007, 0118025003, 0118025006, 0118025007 and 0118025008 of
 8 Monongalia shall constitute the fourteenth senatorial district;

9 (15) The counties of Hampshire, Hardy, Morgan, Pendleton,
 10 Pocahontas, Randolph and voting district 22, blocks: 9712006072,
 11 9712006073, 9712006074, 9712006075, 9719002004, 9719002006, 43,
 12 blocks: 9718003004, 9718003010, 9718003011, 9718003012, 9718003013,
 13 9718003014, 9718003015, 9718003016, 9718003017, 9718003021,
 14 9718003022, 9718003023, 9718003024, 9718003025, 9718003026,
 15 9718003027, 9718003028, 9718003029, 9718003030, 9718003031, 45, 46,
 16 blocks: 9712006065, 9712006070, 9712006071, 9718001036, 9718001037,
 17 9718001038, 9718001039, 9718001040, 9718001043, 9718001050,
 18 9718001051, 47, 51, blocks: 9721003018, 9721003019, 9721003020,
 19 9721003021, 9721003022, 9721003023, 9721003024, 9721003025,
 20 9721003026, 9721003027, 9721003028 and 9721003029, of Berkeley,
 21 voting districts 1, 2, 3, 4, 5, 6, 7, 11, 12 and 13 of Grant and
 22 voting districts 33 and 39 of Upshur shall constitute the fifteenth
 23 senatorial district;

24 (16) The counties of Jefferson and voting districts 1, 2, 5,
 25 6, 7, 8, 9, 10, 11, 14, 15, 15A, 16, 17, 18, 19, 20, 21, 22,
 26 blocks: 9712006076, 9712006077, 9716003005, 9716003006, 9717004012,
 27 9719001010, 9719001011, 9719001012, 9719001013, 9719001014,
 28 9719001015, 9719001016, 9719001017, 9719001018, 9719001019,

16 (e) The West Virginia constitution further provides, in
17 section four, article VI thereof, that where a senatorial district
18 is composed of more than one county, both senators for such
19 district shall not be chosen from the same county, a residency
20 dispersal provision which is clear with respect to senatorial
21 districts which follow county lines, as required by such
22 constitution, but which is not clear in application with respect to
23 senatorial districts which cross county lines. However, in an
24 effort to adhere as closely as possible to the West Virginia
25 constitution in this regard, the following additional provisions,
26 in furtherance of the rationale of such residency dispersal
27 provision and to give meaning and effect thereto, are hereby
28 established:

1 (1) With respect to a senatorial district which is composed of
2 one or more whole counties and one or more parts of another county
3 or counties, no more than one senator shall be chosen from the same
4 county or part of a county to represent such senatorial district;

5 (2) With respect to a senatorial district which does not
6 contain any whole county but only parts of two or more counties, no
7 more than one senator shall be chosen from the same part to
8 represent such senatorial district; and

9 (3) With respect to superimposed senatorial districts which
10 contain only one whole county, all senators shall be chosen from
11 such county to represent such senatorial districts.

12 (f) Candidates for the Senate shall be nominated as provided
13 in section four, article five, chapter three of this code, except
14 that such candidates shall be nominated in accordance with the
15 residency dispersal provisions specified in section four, article
16 VI of the West Virginia constitution and the additional residency
17 dispersal provisions specified in subsection (e) of this section.
18 Candidates for the Senate shall also be elected in accordance with
19 the residency dispersal provisions specified in said section and
20 the additional residency dispersal provisions specified in
21 subsection (e) of this section. In furtherance of the foregoing
22 provisions of this subsection, no person may file a certificate of
23 candidacy for election from a senatorial district described and
24 constituted in subsection (d) of this section if he or she resides
25 in the same county and the same such senatorial district wherein
26 also resides an incumbent senator, whether the senatorial district
27 wherein such incumbent senator resides was described and
28 constituted by chapter eighty-five, acts of the Legislature, one

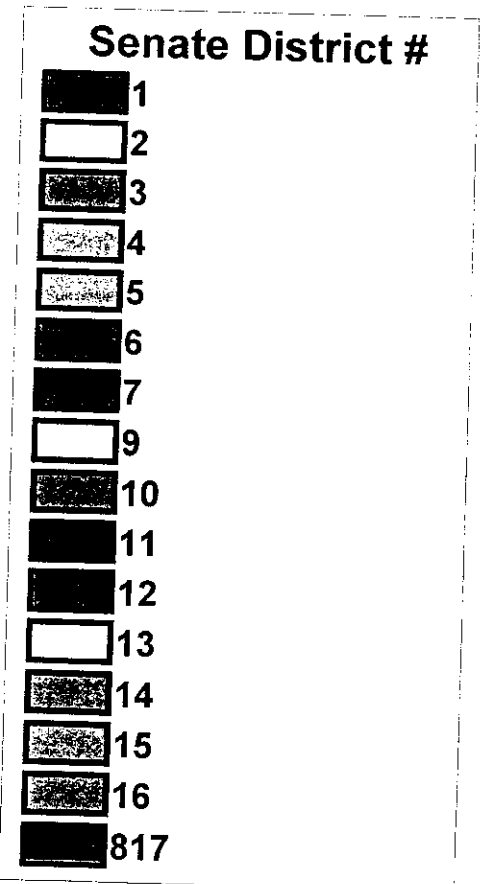
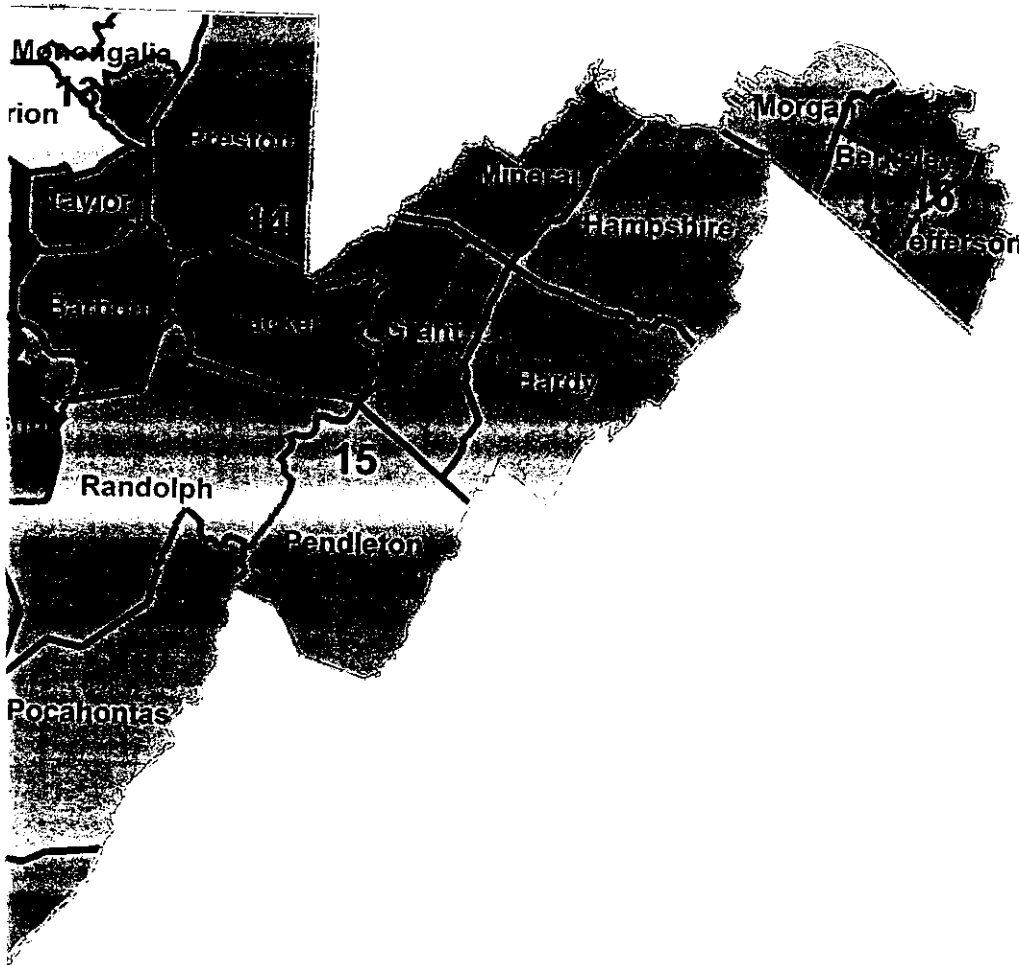
1 thousand nine hundred ninety-three, or was described and
2 constituted in subsection (d) of this section or its immediately
3 prior enactment. Any vacancy in a nomination shall be filled, any
4 appointment to fill a vacancy in the Senate shall be made and any
5 candidates in an election to fill a vacancy in the Senate shall be
6 chosen so as to be consistent with the residency dispersal
7 provisions specified in section four, article VI of the West
8 Virginia constitution and the additional residency dispersal
9 provisions specified in subsection (e) of this section.

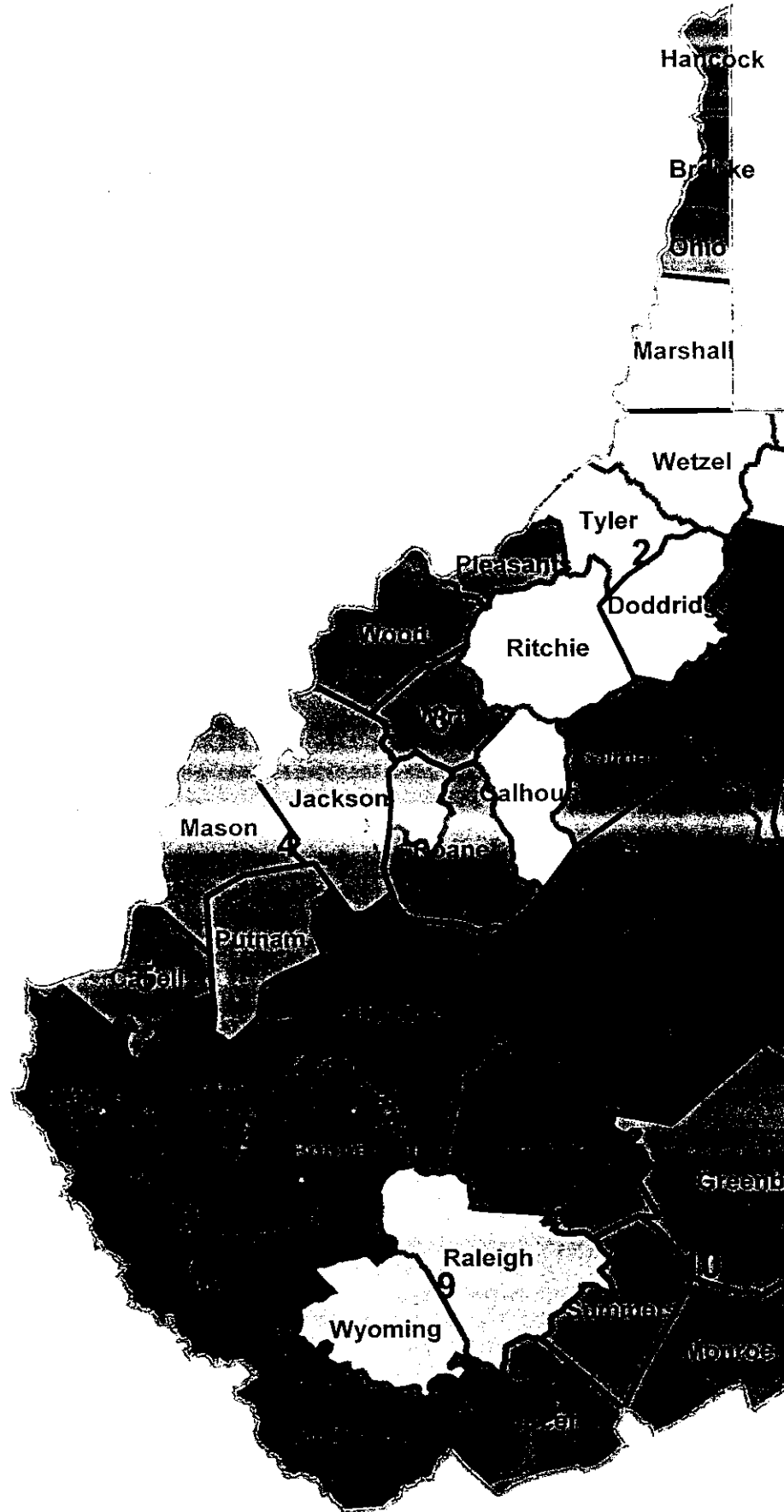
10 (g) Regardless of the changes in senatorial district
11 boundaries made by the provisions of subsection (d) of this
12 section, all senators elected at the general election held in the
13 year one thousand nine hundred ninety-eight and at the general
14 election held in the year two thousand shall continue to hold their
15 seats as members of the Senate for the term, and as representatives
16 of the senatorial district, for which each thereof, respectively,
17 was elected. Any appointment made or election held to fill a
18 vacancy in the Senate shall be for the remainder of the term and as
19 a representative of the senatorial district, for which the vacating
20 senator was elected or appointed, and any such election shall be
21 held in the district as the same was described and constituted at
22 the time the vacating senator was elected or appointed.

23 (h) The secretary of state may promulgate rules and
24 regulations to implement the provisions of this section, including
25 emergency rules and regulations promulgated pursuant to the
26 provisions of section five, article three, chapter twenty-nine-a of
27 this code.

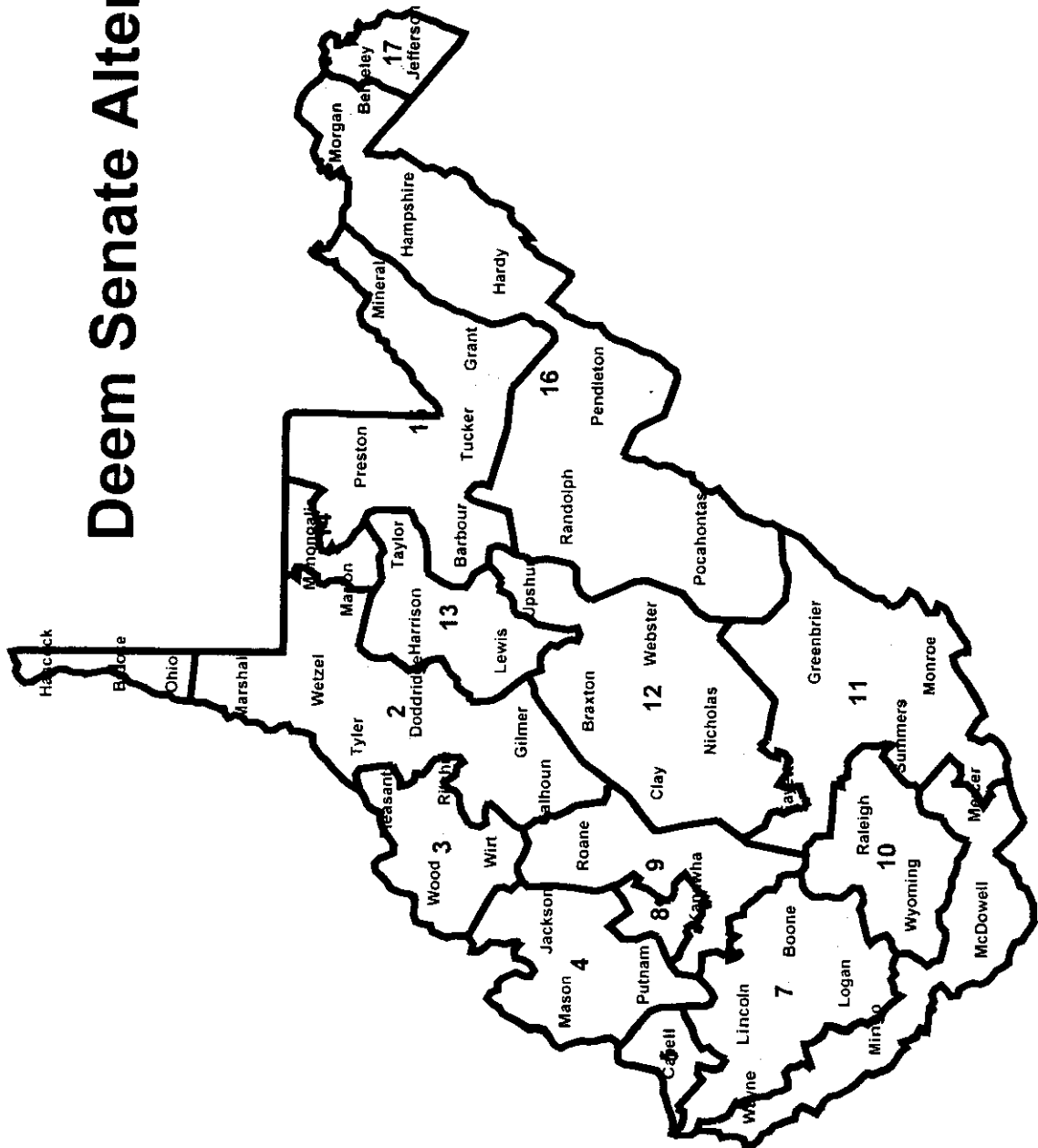
28 **§1-2-2. Apportionment of membership of House of Delegates.**

Senate Districts





Deem Senate Alternative



Plan: Deem Senate Alternative

Plan Type:

Administrator:

User: Mark

Population Summary Report (multi-member)

Thursday, October 18, 2001

10:49 AM

DISTRICT	NUMBER OF MEMBERS	POPULATION	IDEAL POPULATION	DEVIATION	% DEVIATION
1	2	105,541	106,374	-417	-0.78
2	2	106,761	106,374	194	0.36
3	2	106,198	106,374	-88	-0.17
4	2	105,546	106,374	-414	-0.78
5	2	105,851	106,374	-262	-0.49
6	2	106,888	106,374	257	0.48
7	2	107,775	106,374	701	1.32
8	2	107,705	106,374	666	1.25
9	2	107,814	106,374	720	1.35
10	2	104,928	106,374	-723	-1.36
11	2	105,802	106,374	-286	-0.54
12	2	107,618	106,374	622	1.17
13	2	105,659	106,374	-358	-0.67
14	2	107,088	106,374	357	0.67
15	2	105,671	106,374	-352	-0.66
16	2	104,844	106,374	-765	-1.44
17	2	106,655	106,374	141	0.26

Total Population: 1,808,344

Ideal Population: 53,187

Summary Statistics

Population Range: 52,422 to 53,907

Ratio Range: 1.03

Unadjusted Absolute Range: -1,530 to 1,440

Absolute Range: -765 to 720

Absolute Overall Range: 1,485

Relative Range: -1.44% to 1.35%

Relative Overall Range: 2.79%

Absolute Mean Deviation: -0.41

Relative Mean Deviation: 0.00%

Standard Deviation: 496.97

Plan: Deem Senate Alternative
 Plan Type:
 Administrator:
 User: Mark

Plan Components Report

Thursday, October 18, 2001

10:42 AM

	Population
District 1	
Brooke County	25,447
Hancock County	32,667
Ohio County	47,427
District 1 Subtotal	105,541
District 2	
Calhoun County	7,582
Doddridge County	7,403
Gilmer County	7,160
Marion County (part)	12,977
Marshall County	35,519
Monongalia County (part)	3,317
Ritchie County (part)	5,518
Tyler County	9,592
Wetzel County	17,693
District 2 Subtotal	106,761
District 3	
Pleasants County	7,514
Ritchie County (part)	4,825
Wirt County	5,873
Wood County	87,986
District 3 Subtotal	106,198
District 4	
Jackson County	28,000
Mason County	25,957
Putnam County	51,589
District 4 Subtotal	105,546
District 5	
Cabell County	96,784
Wayne County (part)	9,067
District 5 Subtotal	105,851
District 6	
McDowell County	27,329
Mercer County (part)	39,892

Plan: Deem Senate Alternative
Type:

Administrator:
User: Mark
Population

District 6 (continued)

Mingo County 28,253

Wayne County (part) 11,414

District 6 Subtotal 106,888

District 7

Boone County 25,535

Lincoln County 22,108

Logan County 37,710

Wayne County (part) 22,422

District 7 Subtotal 107,775

District 8

Kanawha County (part) 107,705

District 8 Subtotal 107,705

District 9

Kanawha County (part) 92,368

Roane County 15,446

District 9 Subtotal 107,814

District 10

Raleigh County 79,220

Wyoming County 25,708

District 10 Subtotal 104,928

District 11

Fayette County (part) 20,679

Greenbrier County 34,453

Mercer County (part) 23,088

Monroe County 14,583

Summers County 12,999

District 11 Subtotal 105,802

District 12

Braxton County 14,702

Clay County 10,330

Fayette County (part) 26,900

Nicholas County 26,562

Upshur County (part) 19,405

Webster County 9,719

District 12 Subtotal 107,618

District 13

Harrison County 68,652

Lewis County 16,919

Taylor County 16,089

Upshur County (part) 3,999

Plan: Deem Senate Alternative
Type:

Administrator:
User: Mark

	Population
District 13 Subtotal	105,659
District 14	
Marion County (part)	43,621
Monongalia County (part)	63,467
District 14 Subtotal	107,088
District 15	
Barbour County	15,557
Grant County	11,299
Mineral County	27,078
Monongalia County (part)	15,082
Preston County	29,334
Tucker County	7,321
District 15 Subtotal	105,671
District 16	
Berkeley County (part)	11,440
Hampshire County	20,203
Hardy County	12,669
Morgan County	14,943
Pendleton County	8,196
Pocahontas County	9,131
Randolph County	28,262
District 16 Subtotal	104,844
District 17	
Berkeley County (part)	64,465
Jefferson County	42,190
District 17 Subtotal	106,655
State totals	1,808,344

Plan Name: Deem Senate Alternative
 Plan Type:
 Administrator:
 User: Mark

Political Subdivisions Split Between Districts

Thursday October 18, 2001

10:53 AM

Number of subdivisions not split:

County 46

Number of subdivisions split into more than one district:

County 9

County

Cases where a County is split among 2 Districts: 7

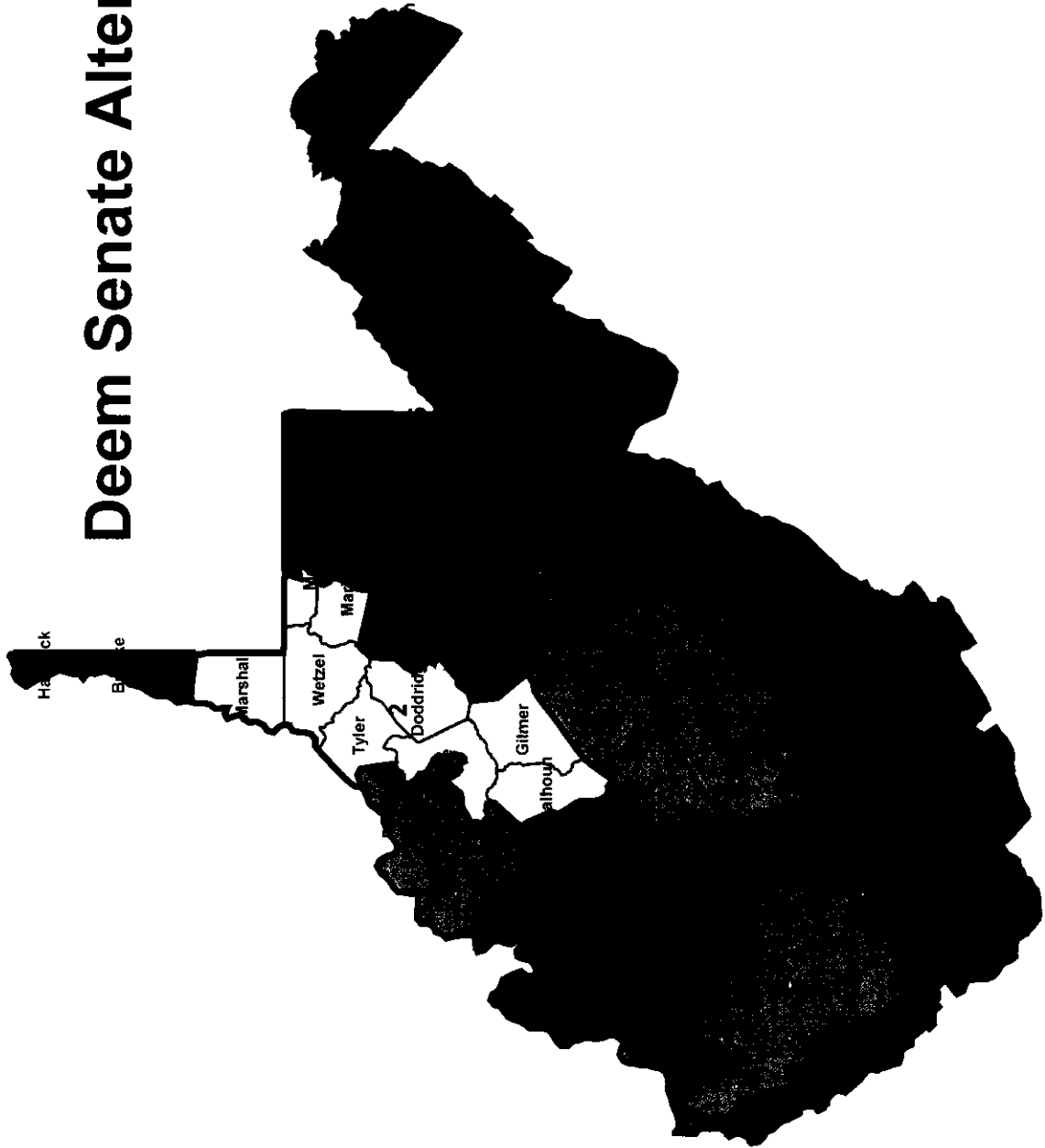
Cases where a County is split among 3 Districts: 2

Number of times a County has been split into more than one district: 11

Total of County splits: 20

County	District
<i>Split Counties :</i>	
Berkeley	16
Berkeley	17
Fayette	11
Fayette	12
Kanawha	8
Kanawha	9
Marion	2
Marion	14
Mercer	6
Mercer	11
Monongalia	2
Monongalia	14
Monongalia	15
Ritchie	2
Ritchie	3
Upshur	12
Upshur	13
Wayne	5
Wayne	6
Wayne	7

Deem Senate Alternative



District #

